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10/064,075	06/07/2002	Frank Poma	10539.4801	3897

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 10/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/064,075

Applicant(s)  
FRANK POMA ET AL.

Examiner  
YVONNE M. HORTON

Art Unit  
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 25, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-28 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 15-19 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed 6/25/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: there is no support in the specification for the supports terminating in one or more aligning straight-ended rod members...". Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 and 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the recitation "comprising means for reinforcing the supports centrally located within the supports which terminate in one or more aligning straight-ended rod members..." is indefinite in that it is not clear what is terminating. For instance, does the "means" terminate or "the supports centrally located"? Until further clarification the claim has been read as the means terminating in the straight ended rod member. Clarification and correction are required.

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In claim 20, the claim is directed to a combination/subcombination. However, in the previous rejection, the examiner was examining only the "subcombination" of the "columnar insert" alone. According to the amendments presented, it appears that the applicant desires the combination of the columnar insert and the pre-cast panels. Clarification and correction is required. Until further clarification, the claim are being examined as the combination.

***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-3,5 and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #6,244,005 to WALLIN. WALLIN discloses the use of a concrete panel (1) including a means (30,38) for securing the panel (1) to a footer (9,21), a plurality of centrally located columnar supports (4,5) having means (6) for reinforcing the supports (4,5), and a means (7,8) for facilitating placement of the panels (1) in cooperative connection with the supports (4,5), column 4, lines 10-12, and wherein the means (6) terminate in a straight ended rod member (24). Regarding claim 2, the means for reinforcing (4,5) includes a plurality of reinforcing bars. In reference to claim 3, the means for securing the panels (1) is a plate on a inside face of a bottom portion of the panel (1). Regarding claim 5, the means (38) is s weld plate located at the top of the columnar supports (4,5), see figure 19. In reference to claim 9, the panel (1) also includes a plate (30A) disposed on the left and right sides of the panel (1), see figure 21.

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6. Claims 20-23 stands rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,956,912 to CARTER et al. CARTER et al. discloses the use of a columnar insert (800,900) including a faceted portion (844,944) and (842,942), an inner arm (816,916) and an outer T-shaped form (colored red) opposite the inner arm (816,916) for positioning between two adjacent pre-cast tilt-up panels (403,404). Regarding claims 21-23, the faceted portion (844,944) and (842,942); inner arm (816,916) and T-shape form (colored red) are all hollow (830,930).

***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 4,6-8 and 11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,244,005 to WALLIN. As detailed above, WALLIN discloses the basic claimed panel except for explicitly detailing the type and size of reinforcing bar, except for detailing the specifics of the location of the means for facilitating, and except for detailing the size of his panel and columnar supports. Regarding claim 4, although WALLIN is silent in reference to the type and size of his reinforcing bar, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the type and size of reinforcing bar since it is within the general skill of a worker in the art to select a known material on the basis of its suitability for the use intended as an obvious matter of design choice. For instance, larger size reinforcing bars are used for structures having much more loads applied thereto than a smaller structure. Also heavier or larger size reinforcing bars are perhaps used in areas where extreme external

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conditions influence the buildings reactions thereto. In reference to claims 6 and 7, although WALLIN is silent with regards to the exact position of the facilitating means, it too would have been an obvious matter of design choice to locate the facilitating means at a positions which provide the panel with the optimum or most effective result of facilitating placement of the panels. Regarding claim 8, WALLIN does not specifically discloses the use of an "eyelet" per se. However, he does disclose the use of a receptor (31) and lifting hooks (7,8) which are very well known art recognized equivalent means for lifting and positioning a panel. In reference to claim 11, WALLIN is again silent in regards to the size of his panels. However, the size of the panel is also an obvious matter of design choice which is suitable for the use intended.

9. Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,244,005 to WALLIN in view of US Patent #5,491,948 to HARRIS. As detailed above, WALLIN discloses the basic claimed panel except for panels being chamfered and except for the use of spacers between adjacent panels. HARRIS teaches the use of spacers (112) disposed between two panels (10) wherein the panels (10) are chamfered (34). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide adjacent panels of WALLIN with the chamfered edges and spacers of HARRIS in order to seal a formed wall against infiltration effectively form an airtight wall

10. Claims 12 and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,244,005 to WALLIN in view of US Patent #5,491,948 to HARRIS. .

WALLIN discloses the method for building a tilt-up wall structure including the steps of forming a first/second panel (1) including a plurality of reinforcing bars (4,5) and reinforcing bar

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extensions (7,8); providing a footer (9) having holes (11); filling holes (11) with grout (25) and placing each panel (1) on the footer (9). WALLIN discloses the basic claimed tilt-up structure except for the panel edges being chamfered. HARRIS teaches that it is known in the art to chamfer (34) the edges of adjacent concrete panels. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to chamfer the edges of the concrete panel of WALLIN as taught by HARRIS in order to facilitate an easier placement and connection of adjacent panels. In reference to claim 13, neither WALLIN or HARRIS discloses the use of shims. However shims are old and very well known in the art of building up wall structures. Thus it would have been obvious to one having ordinary skill in the art to provide the method of placing shims between the footer and panel in order to maintain a sure and aligned placement of the panel prior to actual placement of the panel upon the footer.

***Allowable Subject Matter***

11. Claims 15-19 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. Claims 24-28 are allowed.

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*Response to Arguments*

13. Applicant's arguments filed 6/25/03 have been fully considered but they are not persuasive.

In regards to the applicant's argument that the footer of WALLIN is not "monolithic", "monolithic" merely requires the structure to be a massive, uniform solid. Clearly the footer of WALLIN is a massive, uniform solid.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the footer allowing precise voids that correspond to the ends coming out of the bottom walls to be predrilled into the footer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

In regards to the applicant's argument that WALLIN teaches a different mechanism for putting the wall in place, the claim only requires a "means", and although different, the flanges are clearly "a means" for putting and securing the wall in place.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., welding the wall to the footing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.



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Regarding the applicant's argument that the structure of WALLIN does not teach the use of a means terminating at a straight ended rod member. Clearly, the means (6) terminate in a straight rod (24).

In regards to the applicant's argument that CARTER teaches forming the concrete structure horizontally and therefor the insert can not be placed vertically, clearly CARTER discloses several embodiments one of which includes the use of pre-cast tilt-up wall panels (403,404). In this particular embodiment, the inserts are applied vertically.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

A handwritten signature in black ink, appearing to be 'YMH' with a stylized flourish.

Primary Examiner

September 29, 2003